UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually, Plaintiffs, VS. CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA, DANIEL RAMIERZ and DOES 1 to 10, Defendants.	Case No. CV17-06939-CBM-(MRWx)

CERTIFIED COPY

DEPOSITION OF PHILIP MALIK

Los Angeles, California

Wednesday, December 19, 2018

Reported by:

Matthew Kennedy,
CSR No. 13822

Job No.:
21139CAT(A)

UNITED STATES DISTRICT COURT

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Plaintiffs,	
VS.	
CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA, DANIEL RAMIERZ and DOES 1 to 10,	
Defendants.	

DEPOSITION OF PHILIP MALIK,

taken on behalf of the Defendants, at

200 North Main Street, Seventh Floor,

Los Angeles, California, commencing at

10:18 a.m. and concluding at 1:19 p.m.

on Wednesday, December 19, 2018,

reported by Matthew Kennedy, CSR No. 13822,

a Certified Shorthand Reporter in and for

the State of California, pursuant to Notice.

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Los Angeles, California, Wednesday, December 19, 2018
10:18 a.m.

PHILIP MALIK,
called as a witness, and having been first duly sworn by the Certified Shorthand Reporter, was examined and testified as follows:

THE WITNESS: I do.

EXAMINATION

BY MS. LEE:

Q Okay. Mr. Malik, can you please tell us your full name for the record?

A Philip Malik.

Q Can you spell that?

A P-H-I-L-I-P, M-A-L-I-K.

Q And you don't have a middle name?

A Allen.

Q Have you had your deposition taken before?

A Yes.

Q How many times?

A Once.

Q And when was that?

A I don't remember. Maybe two or three years ago.

Q And was that in relation to a lawsuit that you had filed or someone filed against you?
A Yes.
Q And what was the nature of that lawsuit?
A A car accident.
Q And was that resolved?
A Yes.
Q I'll just go over some general ground rules for the deposition. You've taken an oath. It's the same as if you were testifying in court, and it carries with it the same penalty of perjury. It's important that you give your best testimony today.

So the court reporter here is taking down everything that we're saying, and it's very difficult for him to do so if we're both speaking at the same time. So I'd ask that you wait for me to finish my question before you answer.

Is that agreed?
A Yes.
Q And words like "uh-huh" or "nuh-uh" that we use in everyday conversation don't transcribe correctly. So I'd like to ask if you're going to answer in the affirmative to say yes, or if you're answering in the negative to say no, but use verbal answers.

Do you understand that?

A Yes.

Q And we're going to try to be efficient today and get this done as soon as possible, but if you need to take any breaks at any time or if you want to speak to your attorney, that's fine; just let us know. We can take a break for any reason you'd like, but I'd just ask that you not take a break in the middle of a question. So I'd ask you a question, finish the question, and then we take a break.

Is that agreed?

A Yes.

Q After the end of this deposition, you'll be provided with a transcript. And the transcript will have everything that everybody in this room said written out for you, and you'll have a chance to review it. You'll have a chance to make any corrections that you deem are necessary. But if you make any changes, it can be brought up and used against you later.

Do you understand that?

A Yes.

Q I know we're going to be talking about events that happened some time ago, and you may not remember certain things, and that's okay. But we are entitled to your best recollection of the events of which we're inquiring. And you are to give me your best estimate if

you have one, but I don't want you to guess.

So I'll give you an example of the difference between an estimate and a guess. If I were to ask you to estimate the length of the table in this room, you could look at this table and give me your best estimate. If I were to ask you the length of the table in my dining room, you wouldn't be able to. That's purely a guess because you've never been there. So I don't want you to guess, but we are entitled to your best estimate if you have one.

Do you understand that?

A Yes.

Q If you don't understand my questions, please let me know. We're not here to trick anybody; we just want to get your best recollection and your best testimony of the events. But if you have any questions, please let me know; okay?

A Yes.

Q Can you tell me what your date of birth is?

A 5/17/1973.

Q And where were you born?

A New Jersey City.

Q And where is that located?

A New Jersey.

Q And have you lived continuously in the US since your birth?

A Yes.
Q Did you review any documents to prepare for your testimony today?
A No.
Q Did you review any videos --
A Not today, no.
Q -- to prepare for your testimony today?
A No, No videos.
Q Have you reviewed any photographs?
A No.
Q And other than speaking with your attorney -- and I never want you to tell me what you and your attorney spoke about. But other than speaking with your attorney, have you spoken to any other persons regarding to prepare for your testimony today?
A No.
Q What is your current address?
A 25607 Cypress Street.
Q Cypress?
A Cypress Street in Lomita, California.
Q And how long have you lived there?
A Since 2012.
Q Who lives there with you at the present time?
A Right now?
Q Correct.

A I have a roommate.
Q And what's your roommate's name?
A Robert Wekes.
Q How do you spell the last name?
A W-E-K-E-S.
Q And how long has Mr. Wekes lived there with you?
A Estimate would be about five to six months.
Q And prior to Mr. Wekes living there with you, did any other persons reside with you there?
A Yeah. I had another roommate, but he moved out.
Q What was his name?
A Brian Storks.
Q Can you spell the last name?
A S-T-O-R-K-S.
Q And how long did Mr. Storks live with you at that residence?
A About four to five months, estimate.
Q And within the last five years, have any other persons lived with you at that residence?
A Yes, my ex-girlfriend.
Q And what is her name?
A Apollonia Cruz and her daughter.
Q Can you spell Ms. Cruz's name?
A C-R-U-Z.
Q And the first name?

A A-P-O-L-L-O-N-I-A.
Q And you indicated her daughter?
A Daughter, yeah, Apollonia Peterson was her daughter.
Q And how old is the daughter now?
A She should be about five or six years old now, estimate.
Q Were any of these individuals living with you at the time of your son Eric's death?
A Yes.
Q And who -- which individuals?
A Apollonia and the daughter.
Q Do you have any other children other than Eric Rivera?
A No.
Q And can you tell me Eric's birth date?
A Yes. It's October 25th, 1996.
Q And did Eric reside with you during his lifetime?
A Not his whole lifetime, but he did reside with me.
Q Can you tell me the date that he resided with you?
A Dates? It would have to be an estimate.
MR. GILLETTE: I'd object as overbroad.
///

BY MS. LEE:

Q As a child, did he live with you?

A No.

Q So as a child, who did he live with?

A His mother and his grandmother.

Q Were you married to Eric's mother at one time?

A No.

Q And as a child, you're saying Eric never lived with you from the time he was born until he was 18; is that correct?

MR. GILLETTE: Objection. Misstates prior testimony.

BY MS. LEE:

Q Go ahead. You can tell me.

A He lived with me when he was like -- estimate would be like 15 until like 20, until he died. It's an estimate, though.

Q So from the time he was 15 years old?

A 15 to 16 to about 20. I forget. I don't remember.

Q Then would it be correct then from the time he was born until about 15 or 16, he resided with his mother?

A Correct.

Q And did you and Eric's mother ever reside together with Eric?

A No.

Q At the -- from the time that Eric was residing with his mother from zero to 15 or 16 years old, do you know where they lived?
A Can you repeat the question?
Q When Eric was residing with his mother from the age of zero to 15 or 16 years, where did they live?
A They first lived in Wilmington.
Q Do you know the address?
A I don't know the address.
Q And how long did they reside there for?
A Until about 2011, I would say.
Q And then where did they move if you know?
A They moved to a city near Victorville. I forget the name. Adelanto, Victorville and then Adelanto.
Q So the Victorville area?
A Victorville area, yes.
Q And you believe they lived there from 2011?
A 2011, '12, on and off.
Q Until when?
A Until now.
Q Well, the mother resides there now, correct, as far as you know?
A Well, Eric lived with his grandmother, and the mother was there also. She moved around a bit, so --
Q Okay. So just so I'm clear, when Eric lived in

Wilmington with his mother, the grandmother was also residing with them as far as you know?

A The grandmother and the mother and the mom -- and Eric.

Q And what is the grandmother's name?

A Janie Rivera.

Q Is it J-A --

A I don't know.

Q You just call her Janie?

A Janie.

Q And the grandfather's name?

A I don't know his name.

Q Okay. And then when Eric moved to the Victorville area that you indicated, did he also reside with his mother, grandmother, and grandfather?

A Yes.

Q Okay. And you indicated that at about 15 or 16 years old, Eric came to live with you; is that right?

A Yes.

Q And why did Eric come to live with you?

A I wanted him to live with me.

Q Did you not want him to live with you before?

A No, I wanted him to -- I wanted him to live with me before, yes.

Q But was there a specific reason why Eric resided

with you at that time and not previously?

MR. GILLETTE: Objection. Argumentative.

BY MS. LEE:

Q You can answer.

THE WITNESS: Answer?

MR. GILLETTE: Yeah.

THE WITNESS: I had my own house then, and I had a room for him at that point.

BY MS. LEE:

Q And by the way, your lawyer may lodge objections throughout this deposition, but unless he instructs you not to answer, then you have to answer.

Understood?

A Yes.

Q Okay. Had Eric been having any problems living with his mother prior to coming to reside with you that you're aware of?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Vague and ambiguous.

MS. LEE: Go ahead.

THE WITNESS: Not that I know of, no.

BY MS. LEE:

Q During the time that Eric lived with his mother, how often did you speak with Eric?

A Often. I'd try to see him every weekend.

Q Did you have a formal custody agreement?
A No.
Q And when you say you try to see him -- you tried to see him every weekend, can you give me an average as to how many days in a month you would see Eric on average?
A Maybe four or five days a month.
Q And during those four or five days, did he spend the night at your residence?
A Not all the time, no.
Q So where would he --
A I'd just drop him back off at home. We lived really close by each other.
Q That was my next question. Thank you. How far did you live away from Eric and his mother during the time he was living with his mother?
A You'd have to specify what time -- when he lived in Wilmington, you mean?
Q Sure. When he lived in Wilmington, how far away did you live?
A Most of the time, close, like in Torrance. Most of the time, close.
Q And how many miles approximately is that?
A An estimate would be about two to four miles.
Q And then when Eric moved with his mother to the area close to Victorville, how far away did you live from

them at that time?

A Mileage? I have no idea how far it is. I would guess about -- what is it, like 60 to 100 miles away? I don't know miles.

Q Driving time, how long would that normally take you?

A It would take about an hour.

Q Okay. And even though you lived -- at the time that they lived in the Victorville area, you lived substantially farther from them than when they lived in Wilmington. Did you still continue to see Eric about four to five days a month?

A No. I saw him less.

Q And how often when they lived in Victorville would you estimate that you saw Eric per month?

A Well, it wasn't like a monthly thing then. Like he would come spend a week with me or two weeks with me. He would stay at my house for two or three, and then he would go back up.

Q So within a yearly average, do you have an estimate as to the time that Eric lived in Victorville how often he would spend time with you on a yearly basis?

A It kind of depends on what year because I eventually bought him a car, and he drove back and forth on his own.

Q Before the car that you purchased for him, how often would you estimate that you saw him per year?
A When he lived in Victorville.
Q Correct.
A Maybe five times a year because I was working more.
Q And when you say five times, were they one-day visits?
A No, they would be like week visits.
Q So would you say approximately five weeks a year you saw him during that time period that he lived in Victorville before you bought him the car?
A Yeah, he would try to come down and spend the summer down here. That's all.
Q And then after you bought him the car, how often would you see him?
A I'd see him quite -- more because he'd go back and forth from her house to my house.
Q And what would be your estimate for after you bought him the car how often you would see him?
A Per year, you're saying?
Q Per year, per week, per month -- whatever is the best estimate you can give me.
A I want to say two or three times a week, easily.
Q And then he would drive to come see you and then

he would go home; is that a fair statement?
A Yeah, we had a room at my house at that point, so he could go back and forth as much as he wanted.
Q And did he spend the night during that time at your house?
A Yeah. He'd spend the night, yeah.
Q How often would he spend the night during that time?
A Well -- well, once he had a car, he had already practically lived with me.
Q Oh, I see.
A So that would depend on the year.
Q When did you buy him a car?
A When he turned 16.
Q And you said he practically lived with you. What did do you mean by that?
A Well, he had his own room at my house. I mean, he could go to her house or my house.
Q So during that time, was Eric spending half his time with you, half his time with his mother, or give me your best estimate.
A Yeah. About half and half, yeah.
Q And that -- so that started at 16 years old. Did he continue to split time between your house and his mother's house until his death?

A No. He stayed more at my house.
Q Okay. So when did he begin to stay more time at your house? How old was he?
A 17, 18, 19, 20.
Q So 17 to 20, he stayed more at your house; correct?
A Yes.
Q And when you say "more," can you give me a percentage of time? Was it like 70 percent at your house, 30 percent at his mom's house?
MR. GILLETTE: Objection. Vague and ambiguous.
BY MS. LEE:
Q Give me your best estimate, please.
A Estimate would be he'd spend 80 percent at my house and 20 percent at their house.
Q And is there a particular reason why at that time Eric spent more time at your house and less time at his mother's house that you're aware of?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Argumentative.
THE WITNESS: The reason? I think he liked the weather down here better, and his friends were down here. So --
BY MS. LEE:
Q Now, during the time that Eric lived with his

mother, you said it was from the time he was born until he was approximately 15 or 16. Did you provide him any financial support?

A Yes.

Q And how much money did you -- did you give the money to his mother, or give it to him directly?

A To the grandmother.

Q And is that pursuant to a court order?

A No.

Q How much did you give to Eric's grandmother on Eric's behalf?

A About $300 a month.

Q And was that the same amount from the time that Eric was born until he was about 15 or 16?

A Close to it, yeah.

Q And you're saying there was no order or legal adjudication for that?

A No.

Q That's just an amount that you agreed upon; is that right?

A Yes.

Q Did you on top of that give Eric any spending money from the time that he was zero to about 15 or 16 and was living with his mother?

A Yeah, I bought him clothes and gave him money to

go to school and stuff like that.

Q Approximately how much additional money did you give Eric during those years?

A Whatever he needed, whatever he asked for, I usually gave it to him.

Q So on a monthly basis, do you have an estimate?

A Maybe $100.

Q And once again, is that the same for each year that he lived with his mother approximately?

A No, it varied. When he was younger, he didn't ask for much. When he got closer to being a teenager, he asked for more things.

Q And other than buying Eric a car, did you purchase any other items for him that weren't everyday items?

A Yeah, video games, skateboards, bikes, toys. More video games and more video games.

Q And when he was a teenager, was there a time that you started giving him spending money or an allowance or some things like that?

A Yes.

Q How old was he when you started giving him spending money?

A Probably 17.

Q And how much did you give him?

A $40 or $50.
Q A week or --
A Usually when he asked for it.
Q Was that --
A Probably every other week or something like that.
Q Okay. Did you ever pay any of Eric's bills during his lifetime like credit cards, or if he had any other type of bills?
A Sometimes a cell phone bill.
Q And when did you pay Eric's cell phone bill? How old was he?
A When he was about 17 and 18, 19, I'd pay it sometimes. When he couldn't pay it, I'd pay it.
Q So you didn't pay it regularly --
A I didn't pay it regularly, no. And he didn't have a phone all the time, so --
Q Okay. I see. Was Eric ever employed?
A Yes, he worked for me.
Q And when did he work for you?
A Any time I needed him to -- we own some rental houses, me and my family -- me and my dad own rental houses. And any time somebody moved out, I'd ask Eric to come with me and help me paint the houses, change the tile, and fix up the house to get it rented out or remodel the house.

Q So is that your main occupation is management?
A Now it is. Yes. Now it is.
Q What is your title at the company?
A I'm a landlord and real estate agent.
Q And what is the name of your company?
A The real estate office?
Q Yes.
A Home Team Realty.
Q And where is that based?
A In Torrance.
Q Torrance. And how long have you had that company?
A I'd have to give you an estimate. I might have been doing that for about maybe 12 years. That's an estimate. I'm not sure.
Q And that's your -- that has been your full time job for the last 12 years?
A No.
Q What other job did you have for the last 12 years?
A I owned a smog check station in Redondo Beach.
Q And what is the name of that business?
A Redondo Beach Arco Smog.
Q And how long have you owned that business?
A I'd have to give you another estimate. Maybe six

or -- six to eight years.

Q Okay. Did you have any other employment in the last ten years?

A Yes. I worked as a smog tech and manager at -- my brother owned a gas station. I worked for him. And my mom and dad owned another gas station. I worked for them also.

Q And where were those located?

A The Mobil gas station that my brother owned was in Torrance, California on Carson and Crenshaw. Do you want the address? 1640 Crenshaw Boulevard.

Q Thank you. And then the other gas station?

A It was on Carson Street in Torrance.

Q And you said that was owned by who?

A My mother and father.

Q And how long did you work at that business?

A I'm going to have to give you another estimate.

Q Sure.

A So it was maybe about six to ten years.

Q Did you have any other sources of income for the past ten years?

A Sold things on eBay.

Q Anything else?

A I mean, just -- I own houses that I'm a landlord at, and I think that's it. Yeah.

Q So real estate that you own?
A Yeah, I own.
Q And were you renting it out and managing it?
A Yes.
Q And how -- how many properties did you own within the last ten years?
A I personally own four -- five properties, and my dad owns the rest of them, like 14 other ones.
Q And you were helping your dad manage these properties?
A Yeah, I do all the maintenance and repair and everything like that. Me and my brother and Eric did maintenance repair and getting them ready to rent out and remodeling to all those houses.
Q And are those all part of Home Team Realty?
A No, they're actually property that me and my father own.
Q Just by your name, no company name?
A No company.
Q So you said that Eric sometimes assisted you with your rental homes and painting, changing tiles, fixing them up; correct?
A Yes.
Q And when did he start helping you with this? How old was he?

A About maybe like 12.
Q Okay.
A Whenever he could do it, he would do it; you know?
Q And he was he on your payroll, or were you just giving him some cash?
A Just cash.
Q And how often did Eric do these jobs for you?
A When he got older, 15, 16, those ages, he would come almost every time I would have to do something. He would come with me.
Q And how -- can you give me your best estimate when he was 15 or 16 and he regularly was helping you, how often he would do these jobs?
A Like every other month.
Q And is it for one day every other month or several days?
A It would be like four or five days of just hard work.
Q And how much money did you pay him?
A $300 to $400.
Q $300 to $400 per job?
A Yeah, per unit, house, whatever we were doing. Not per day, per job.
Q And what's your best estimate as to how much you

paid Eric yearly starting from when he was 16 years old for doing these jobs?

A Yearly? About -- I'd say about $1,800. That's an estimate.

Q And once again, this is cash that you gave him; he was never on your payroll?

A No, yeah. I just gave him cash, yeah, so he could get stuff that he wants to get.

Q Did you know of any other employment that Eric had during his lifetime?

A No. He was really young still.

Q So he never had a high school job or anything on the side?

A No. He got enough work.

Q Where did Eric go to elementary school?

A He started at Golf Avenue in Wilmington. Then he went to Lomita Magnet in Lomita. And then he went to Wilmington Junior High I think it was -- Fleming, then Wilmington Junior High. And then he went to Serrano High School, and then Adelanto High School.

Q I'm sorry. You're going fast. Serrano High School, where is that located?

A In the Victorville area.

Q And I'm sorry. Where did he go after that?

A Adelanto High School.

Q Can you spell that for me?
A I would guess A-D-E-L-A-N-T-O high school.
Q And where is that located?
A In Adelanto, I would guess.
Q Is that the Victorville area?
A Victorville area, yeah. I'm a little shady about that, but yeah.
Q No problem.
A And then he went to Narbonne High School.
Q How do you spell that?
A N-O-R-B-O-N-E [sic]. Narbonne High School.
Q And where is that located?
A It's on the border of Torrance I want to say.
Q Okay.
A Yeah, I don't know what that city is. It's like Torrance. It's the high school from Lomita -- for Lomita.
Q And you indicated that Eric started pretty much living majority of time with you when he was 16 years old; is that right?
A Yes.
Q So what high school was he going to when he was living majority of time with you?
A He went to Narbonne High School.
Q That's the one that's close to your house?
A Yes.

Q And the Adelanto High School, that would have been the one that's closer to his mother's residence; is that correct?
A Yes.
Q Was Eric in any type of special education that you're aware of?
A I'm not aware of that.
Q Did he ever see any school counselors for any issues that you're aware of?
MR. GILLETTE: Objection. Vague and ambiguous. Overbroad.
BY MS. LEE:
Q Go ahead and answer.
A I wasn't aware of that.
Q Was he ever diagnosed with any disorders that you're aware of?
MR. GILLETTE: Objection. Vague and ambiguous. Overbroad.
THE WITNESS: No, I'm not aware of that.
BY MS. LEE:
Q And in elementary school, are you aware of what type of grades he got?
A He didn't do very well, but he did okay.
Q So okay. Meaning C average?
A C average.

Q And what about middle school? Are you aware of what grades he got?
A He did a little bit better, I would say about B or C average again.
Q And what about high school? Are you aware of what grades he got in high school?
MR. GILLETTE: Objection. Asked and answered.
BY MS. LEE:
Q Go ahead.
A About a C average.
Q Did he ever go to college or any type of college preparatory school?
A No, he did not.
Q Did anyone ever inform you that they were concerned about Eric's mental health?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
BY MS. LEE:
Q You can answer.
A No, nobody.
Q Were you ever concerned about Eric's mental health?
A No.
Q Did Eric get into a lot of fights when he was a child?

A Not that I know of.
Q Did he get into any fights or altercations when he was a child that you're aware of?
A Fights? I think he might have came home with, like, a busted lip once. I'm not sure.
Q Was he ever suspended from school that you're aware of?
A I don't remember.
Q Did he graduate from high school?
A No, he -- he got a GED.
Q So did he stop going to high school prior to graduation?
A Yeah. He stopped going, yeah.
Q How old was he when he stopped going to high school?
A I believe 17.
Q And are you aware of why he stopped going to high school at that time?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
BY MS. LEE:
Q Go ahead. You can answer. Are you aware?
A Yes.
Q Can you tell me why?
A He went to boy's camp.

Q What is boy's camp?
A It's boy's camp.
Q Is that a program or --
A Yeah, I guess it is kind of a program.
Q Is that something that was mandated by the school or by the courts or by anybody?
A By a court, yeah.
Q What court mandated that he go to boy's camp?
A I would guess Torrance Court.
Q And do you know how that came about that he was mandated to go to a boy's camp?
A Yeah. Me and him got in a physical altercation.
Q How old was he when that occurred?
A 16, 17. Something like that.
Q Do you remember the month and year?
A No, I don't remember.
Q And you say he and you got into a physical altercation. Can you tell me what happened?
A We just got in a little argument, and we just got a little physical, and that was it.
Q Okay. What was the argument about?
A His car and something about some money. I don't know.
Q So this is the car you purchased for him; is that correct?

A Yes.
Q And you say the argument was related to the car. Were you trying to take the car back from him or something like that?
A Yeah. I didn't want him to go somewhere in the car.
Q Why didn't you want him to take the car and go somewhere?
A It was late.
Q Any other reason?
A No. That's it.
Q And he wasn't happy that you didn't want him to take the car; correct?
A Yes.
Q And you say you got into a physical altercation. Did he lay his hands on you?
A No.
Q So did he touch you in any way during that altercation?
A A little bit, yeah.
Q Describe to me how he touched you during that altercation.
A He -- he hit me with some object.
Q What was the object?
A It was a pipe.

Q Can you describe the dimensions of the pipe?
A I don't remember.
Q Was it more than 12 inches long?
A I don't remember.
Q What kind of pipe was it?
A I don't remember, really.
Q Was it plastic, metal, or composed of anything else?
A I don't know what it was made of.
Q And you said he hit you with the pipe. Where did he hit you on your body?
A On the bottom of my leg.
Q And I think you're indicating your left leg?
A Left leg.
Q Like by your ankles?
A Yeah.
Q Is that yes?
A Yes.
Q How many times did he hit you with this pipe?
A Once.
Q Was anyone else present when he hit you with this pipe?
A No.
Q So your girlfriend wasn't there at the time?
A No. She did not live with me then.

Q You don't remember the month or the year this occurred?
A No.
Q And you indicated you called the police; correct?
A Yes.
Q Why did you call the police?
A I felt I should call the police.
Q Were you scared of him?
A No.
Q Were you angry with him?
A I was a bit angry, yeah.
Q So you called the police because you were angry with him?
A Yeah. I just called the police.
Q And after he hit you this one time with a pipe, what happened after that?
A The police came and made a report, and that was it.
MR. GILLETTE: Lisa, may I take a break real quick?
MS. LEE: Sure.
(Off the record)
BY MS. LEE:
Q And what police agency was it that responded to this incident?
A Lomita Sheriffs.

Q Are you aware of any other incidents in which Eric assaulted other people?

MR. GILLETTE: Objection. Lacks foundation. Argumentative. Assumes facts not in evidence.

BY MS. LEE:

Q You can answer.

MR. GILLETTE: Calls for speculation.

THE WITNESS: No. I don't remember that ever happening.

BY MS. LEE:

Q Sorry?

A No. I don't remember that ever happening.

Q How was your relationship with Eric prior to this incident?

A We were okay. Yeah. I picked him up and he moved back in. He lived back with me and everything, and we were cool.

Q After the incident, he moved back in with you?

A Yeah.

Q How long was he at the boys camp for?

A Six to nine months, something like that.

Q Did you visit him while he was at this boys camp?

A No, I just picked him up when he got out.

Q So it wasn't an overnight thing; he just went daily; is that right? Or was it an overnight program?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.

BY MS. LEE:

Q Let me clarify. During the six to nine months that he was at the boys camp, did he sleep there during this time?

A Yes.

Q So you said you did not visit him during this time; correct?

A No.

Q Is there a particular reason why you didn't visit him during this time?

MR. GILLETTE: Objection. Argumentative.

THE WITNESS: It was far away.

BY MS. LEE:

Q Where was the boys camp?

A I don't remember the city.

Q Approximately how far from your residence was the boys camp?

A Miles? I'd say about 60 to 100 miles.

Q Any other reason other than it being far that you did not visit Eric during this time?

MR. GILLETTE: Objection. Argumentative.

THE WITNESS: No.

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BY MS. LEE:

Q Do you know if his mother visited him during that time?

A I don't remember.

Q And you indicated that after he was finished with the boy's camp, he came back to reside with you; is that right?

A Yes.

Q Immediately after the boys camp?

A Immediately after.

Q Did you have any concerns about Eric moving back in with you?

A No.

Q Did you speak with him when he was at the boys camp?

A Yes.

Q How often did you speak to him while he was at the boys camp?

A Once or twice.

Q A day?

A No.

Q During the whole time?

A Yeah.

Q And was that by telephone?

A Yes, by telephone.

Q Do you know if his mother spoke with him while he was at the boys camp?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.

THE WITNESS: I don't know.

BY MS. LEE:

Q Was Eric convicted of a crime based on this incident?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.

THE WITNESS: I'm not sure.

BY MS. LEE:

Q Did you ever testify in court?

A No.

Q Was he arrested to your knowledge?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Vague and ambiguous. Violating right to privacy of a third party.

BY MS. LEE:

Q You can answer.

A I'm not sure because I wasn't there.

Q Are you aware of Eric ever having any anger problems?

MR. GILLETTE: Objection. Vague and ambiguous.

///

BY MS. LEE:
Q You can answer.
A No.
MR. GILLETTE: Overbroad. Not reasonably calculated to lead to the discovery of admissible evidence.
BY MS. LEE:
Q Is your answer "no"?
A No.
Q Are you aware of Eric ever bullying other children?
A No.
Q Did you ever take Eric to see any mental health professional like a psychologist or a psychiatrist?
MR. GILLETTE: Objection. Asked and answered.
THE WITNESS: No.
BY MS. LEE:
Q Are you aware of Eric having any behavioral problems?
MR. GILLETTE: Objection. Vague and ambiguous.
THE WITNESS: No.
BY MS. LEE:
Q Was he ever suspended or expelled that you're aware of from any school or institution?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the

discovery of admissible evidence.

THE WITNESS: I don't remember.

BY MS. LEE:

Q Wait until he finishes before you answer so he can write them both down.

And your answer is you don't remember?

A I don't remember.

Q Did Eric ever go to any trade schools that you're aware of?

A No.

Q Did he hold any specialized certificates or a certificate or like, you know, a security guard certificate or a carpenter certificate or anything?

A No. I mainly taught him stuff.

Q Relating to your real estate business; correct?

A Yeah, to the rental houses, real estate.

Q But he never got a real estate license that you're aware of?

A No.

Q Did Eric ever take any prescription medications that you're aware of?

A No.

Q Did he ever see any doctors for anything other than a regular checkup that you're aware of?

MR. GILLETTE: Objection. Lacks foundation. Calls

for speculation. Vague and ambiguous. Overbroad.

THE WITNESS: I don't remember.

BY MS. LEE:

Q So did he ever have any broken bones or anything of that nature that you recall?

MR. GILLETTE: Same objection.

THE WITNESS: Yes, he did. I think he hurt his arm once when he was like, really young.

BY MS. LEE:

Q Any other times that you recall that he saw a doctor for anything other than a regular checkup?

A I don't remember.

Q Did he ever have any surgeries or procedures that you're aware of?

A No.

Q And has he ever been hospitalized?

A No.

Q Did Eric do any drugs that you're aware of?

A I know he smoked marijuana.

Q When did he begin to smoke marijuana that you're aware of?

A When he was about 16 or 17.

Q And how often did he smoke marijuana at that time that you're aware of?

MR. GILLETTE: Objection. Lacks foundation. Calls

for speculation.

THE WITNESS: I do not know because he didn't do it in front of me.

BY MS. LEE:

Q Then how do you know he did it?

A He said he did.

Q Did he ever do it at your residence?

A No, he wasn't allowed to do it at my residence.

Q Did he tell you when he -- how often he smoked marijuana during that time period of 16 or 17?

A He did not tell me.

Q And did he ever stop smoking marijuana to your knowledge?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

BY MS. LEE:

Q Go ahead. Answer.

A I don't know.

Q You don't know if he ever stopped smoking marijuana?

MR. GILLETTE: Same objection.

THE WITNESS: I don't know.

BY MS. LEE:

Q Do you know where he purchased marijuana?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't know.

BY MS. LEE:

Q Are you aware of any other drugs that he did?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No.

BY MS. LEE:

Q Did he ever do methamphetamine to your knowledge?

MR. GILLETTE: Same objection.

THE WITNESS: No.

BY MS. LEE:

Q Did Eric have any other physical conditions such as high blood pressure or fast heart rate or anything that you're aware of?

A No.

Q And did he have any birth defects that you're aware of?

A No.

Q Other than the incident wherein you've testified that Eric assaulted you, are you aware of any other times he was arrested?

A No.
Q Are you aware of any other times that Eric was prosecuted for any crime?
A No.
Q And you said your relationship with Eric was good prior to this incident; correct?
A Yes.
Q Did he often confide in you regarding things that, you know, he believed were serious?
MR. GILLETTE: Objection. Vague and ambiguous. Lacks foundation. Calls for speculation.
THE WITNESS: Can you be more specific?
BY MS. LEE:
Q So if he had a girlfriend, would he tell you about it?
A No, he wouldn't.
Q If he were hanging out with friends and drinking, would he tell you about it?
A No, he's not -- in my eyes, he's not allowed to drink, so --
Q And if he got in any trouble, would he tell you about it?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't know.
BY MS. LEE:
Q It sounds like you had a strict household. Would you agree with me?
A Yes.
Q Because you indicated he was not allowed to smoke marijuana at you house; correct?
A No, he wasn't.
Q And he wasn't allowed to get in trouble, I would assume; correct.
A No.
Q So if he did those things, fair to say he wouldn't tell you about them?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
THE WITNESS: I don't know because he never told me about it.
BY MS. LEE:
Q Did Eric ever confide in you any problems that he had with his mother?
A No.
Q Did Eric it tell you what type of a relationship he had with his mother?
A No, he didn't.
Q Did he ever say he had a good relationship with

his mother?
A He didn't say that either, no.
Q Did he tell you whether or not he and his mother were close?
A No.
Q And based upon your impression, I'm only asking for your impression, do you believe that you were closer to Eric or his mother?
A I don't know.
Q Did you ever discuss Eric's mother with Eric?
A No, I usually don't.
Q And how was your relationship with Eric's mother during the time that Eric was alive?
A It was good. We got along great.
Q Good co-parenting, you would agree?
A Yeah, we tried.
Q Ever have any disputes with Eric's mother over anything?
A No.
Q What about Eric's mother or grandmother? How was your relationship with them when he was alive?
A Good.
Q Any disputes with them?
A No.
Q Other than the incident where Eric assaulted you,

did you have any other times where you and Eric got into an altercation?

A No.

Q Did you argue regularly like as fathers and sons may do?

A Not really.

Q Have you been -- ever been arrested?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I instruct him not to answer.

MS. LEE: Okay. Well, counsel, he is a plaintiff in this case. His credibility is at issue. So I would urge you to reconsider that.

MR. GILLETTE: I'm going to stand on my objection and instruct him not to answer.

(Witness instructed not to answer)

BY MS. LEE:

Q Have you ever been convicted of any felonies?

A Yes.

Q What have you been convicted of?

A Sex with a minor.

Q When was that?

A I don't know -- I don't remember the year. It was between '95 and '96 something -- '94? Something like that. '94 to '96. Something like that.

Q '94 to '96? And how old were you at the time?
A Probably 19 to 22, something like that.
Q And how old was the minor at the time?
A 15 to 16 or something like that. Estimate. Those are estimates.
Q And what was the arresting agency? Was that LAPD or sheriffs?
A It was Palos Verdes Estates.
Q Estates. Is that a sheriff's department?
A No, it's a city.
Q Did you serve any time for that conviction?
A Yes.
Q How much time did you serve?
A 16 months.
Q And can you give me the month and the year of that conviction?
A No.
Q Give me your best estimate.
A What are you asking exactly?
Q Your best estimate of the month and the year of that conviction.
A I still don't understand what you're saying.
Q The conviction. The month and the year. Can you give me your best estimate of the month and the year of the conviction?

A It was between '94 to '96.
Q And where did you serve the 16 months' time?
A In San Luis Obispo. But not all of it. I don't remember the rest.
Q San Luis Obispo. Is that a jail or a prison?
A I'm not sure.
Q What was the name of the minor?
A Valerie Rivera.
Q So that's Eric's mother; is that right?
A Yes.
Q And did you have a relationship with Ms. Rivera at the time?
A Yes.
Q How long had you been seeing Ms. Rivera prior to the conviction?
A 2 or 3 months.
Q And how did you meet her?
A Through friends.
Q And what city was this? Palos Verdes?
A Of what?
Q Of where you met her.
A I'm not sure.
Q Did you go to school together?
A No.
Q No. That's a bad question. You wouldn't have

gone to school together.

Was she going to school at the time?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.

THE WITNESS: I'm not sure, actually.

BY MS. LEE:

Q Were you going to school at the time?

A No, I wasn't.

Q And is that the two or three months that you were seeing Ms. Rivera, is that the time that Eric was conceived?

A Yes.

Q And did -- how did it come that you became arrested for that? So in other words, do you know if Ms. Rivera called the police on your or her parents or somebody else?

Are you aware?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I'll instruct him not to answer.

MS. LEE: Once again, I don't think your objection is appropriate given the circumstances.

MR. GILLETTE: I'll stand on it.

(Witness instructed not to answer)

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BY MS. LEE:

Q Did you have a relationship with Ms. Rivera after you were released from custody?

A Yes.

Q And how long did you have a relationship with Ms. Rivera after you were released from custody?

A Until now.

Q Let me clarify that. Did you have a romantic relationship with Ms. Rivera after you were released from custody?

A No.

Q Is there any particular reason why the relationship went from romantic to nonromantic?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

BY MS. LEE:

Q Go ahead. You can answer.

A We had a son together, so --

Q Any other reason?

A No.

Q Have you been convicted of any other felonies?

A Yes.

Q Okay. What else have you been convicted of?

A I'm not sure.

Q Well, give me your best description of what you were convicted of.
A A firearm.
Q Possession of a firearm? Selling firearms?
A I'm not sure what it was.
Q Did you sell firearms?
A No.
Q So did you possess a firearm at the time of your conviction?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy and once again, I'll instruct him not to answer.
(Witness instructed not to answer)
MS. LEE: Once again, I think this is inappropriate, counsel, but we'll deal with that later.
BY MS. LEE:
Q What type of firearm did you possess at that time?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.
I'll instruct you not to answer.
(Witness instructed not to answer)
MS. LEE: Okay. I'm going to meet and confer with you after on this issue because I think you're wrong on this.

BY MS. LEE:

Q Can you give me your best estimate as to the month and year of this conviction?

A I'm not sure.

Q How old were you?

A I'm not sure.

Q Were you a teenager?

A I don't remember.

Q Were you in the 20s?

A I don't remember.

Q Did you go by the same name that you go by today when you were convicted of this crime?

A Yes.

Q And was this in Los Angeles county?

A Yes. Yeah.

Q What city were you living in when you were convicted of this crime?

A Palos Verdes Estates.

Q Were you an adult when you were convicted of this crime?

A I'm not sure.

Q Have you been convicted of any other crimes -- any other felonies?

A No.

Q Did you serve any time for the firearm

conviction?
A I don't remember.
Q You don't remember if you went to jail or not?
A I don't remember.
Q Were you on -- after the conviction, were you on probation or parole?
A I think probation.
Q How long were you on probation for?
A I don't remember.
Q Three years?
A Not sure.
Q Did you go to court for this crime?
A Yes.
Q Did you go to trial?
A I don't remember.
Q Did you plead guilty?
A I don't remember.
Q Do you know who called the police to alert them that you had a firearm?
MR. GILLETTE: Objection. Not reasonably calculated to the discovery of admissible evidence. Right to privacy. And I'll instruct him not to answer.
(Witness instructed not to answer)
BY MS. LEE:
Q Are you currently on probation or parole?

A No.
Q When was the last time that you were on probation or parole?
A I don't remember.
Q More than ten years ago?
A I don't remember.
Q More than five years ago?
A I don't remember.
Q Any other felonies that you were convicted of?
MR. GILLETTE: Objection. Asked and answered.
BY MS. LEE:
Q Go ahead.
A No.
Q Do you currently own any firearms?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.
BY MS. LEE:
Q Go ahead.
A No.
Q Do you know if Eric ever owned any firearms?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
THE WITNESS: No.
BY MS. LEE:
Q You don't know, or he didn't?

A He didn't. I'm sorry.
Q That's fine. Do you know if Eric ever owned any toy guns or water guns or anything that resembled a firearm?
MR. GILLETTE: Objection. Vague and ambiguous. Lacks foundation. Argumentative that a toy gun would like look like a firearm.
BY MS. LEE:
Q That's not what I said. Are you aware if Eric ever possessed any guns that were toy guns or looked like a real gun. Are you aware if he ever possessed anything like that?
MR. GILLETTE: Same objection.
BY MS. LEE:
Q Go ahead. You can answer.
A He had toys. You mean when he was growing up? He had toys.
Q In the last five years prior to his death, did you ever see Eric with any toys that resembled guns?
A No.
Q Did Eric have -- did Eric possess any other weapons that you're aware of?
A No.
Q Immediately -- strike that.
Okay. So you said that Eric lived with you

starting from the time that he was approximately 17 until his death about 80 percent of the time?

A Yes.

Q Is that fair? Okay. And during that time, you said that Eric had his own room in your residence; is that correct?

A Yes. He had his own room.

Q And did you -- did you ever see in your residence any toys that resembled firearms?

A No.

Q Did you ever see in your residence any water guns?

A My ex's kid might have had one. She was like a four-year old kid. She might have had some -- some of those Nerf guns or something like that.

Q Can you describe that Nerf gun that you stated that you may have seen in your residence?

A The kids in the neighborhood, they all have like stuff like that. They leave them outside.

Q Can you describe the one that you saw?

A I don't remember, really.

Q What color was it?

A I don't remember.

Q Did you ever see in your residence any toy guns?

A You know, I'm not sure because the kids had a lot

of toys. So it's really hard to remember that.

Q And when you say kids, you mean your ex-girlfriend's daughter?

A Daughter. She lived with us when she was like 3, 4, and 5.

Q From ages 3 to 5?

A Yes.

Q And you recall that you saw various toy guns in your house; is that right?

A The neighbor's kids next door, they had like all kinds of toys in the yards and stuff like that.

Q I'm asking about in your residence, not in the yard.

Did you ever see any toy guns inside your residence?

A Not sure if it was the neighbor's kids coming in and out of the house and stuff like that. So I'm not sure if they were ours and/or our neighbors. They like Nerf guns. They were different. They were just playing and stuff. Skateboards, bikes, all the stuff they have.

Q I'm only asking you about toy guns.

Can you describe any toy guns that you saw in your residence prior to Eric's death?

A No, I can't.

Q Do you believe that there were multiple toy guns

in your residence prior to Eric's death?

MR. GILLETTE: Objection. Misstates the testimony.

THE WITNESS: No, I don't believe there was multiple.

BY MS. LEE:

Q Now, have you seen any photographs of a toy gun that is alleged to have been recovered at the scene of Eric's death? Have you seen any photographs of that toy gun?

A Yes.

Q Do you ever recall -- and where did you see that photograph?

A On the news.

Q ABC? CBS? Do you remember?

A NBC.

Q NBC. Do you recall ever seeing that toy gun in your residence?

A No, I don't -- I don't remember seeing it at all.

Q Did you ever remember seeing that toy gun in Eric's possession at any time?

A No, I had never seen Eric with it.

Q When you were -- prior to Eric's death, did Eric ever play with toy guns that you saw?

MR. GILLETTE: Objection. Lacks foundation. Overbroad.

In his entire life?

THE WITNESS: Yeah, in his life?
BY MS. LEE:
Q In his entire life, did he ever play with toy guns?
A I don't remember him playing with any, but I'm -- he probably has.
Q What about the two years prior to his death? Did you ever see him holding or manipulating any type of toy guns?
A No.
Q Never saw anything -- a toy gun in his hand?
A Never.
Q Two years prior to -- I'm sorry. Strike that.
Five years prior to his death, did Eric ever speak with you about guns of any type?
A No. He knows he's not allowed to have them, so --
Q And that's your rule?
A My rule, yeah.
Q Do you know if Eric ever had a gun that was kept at his mother's house?
A No, he did not.
Q Did Eric ever prior to his death, say the five years prior to his death, did he ever talk about shooting people in front of you?

A No, never.
Q Was Eric ever taken away on any type of mental or psychiatric hold that you're aware of?
A No.
Q Has Eric ever expressed to you his feelings about police officers?
MR. GILLETTE: Objection. Vague and ambiguous. Overbroad. Not reasonably calculated to lead to the discovery of admissible evidence.
MS. LEE: Go ahead.
THE WITNESS: No. He hasn't said anything.
BY MS. LEE:
Q Did he ever tell you that he disliked police officers or had any problems with police officers?
A No, he hasn't.
Q Do you know if Eric had prior contacts with police officers other than the incident wherein he assaulted you?
MR. GILLETTE: Same objection.
THE WITNESS: I don't know, no.
BY MS. LEE:
Q Did police officers ever come to your house to inquire about Eric other than the incident that you testified about wherein he assaulted you?
A They came to tell me he died.

Q Other than that, any other times?
A No.
Q Do you know if Eric ever threatened police officers?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.
THE WITNESS: I don't know.
BY MS. LEE:
Q Would it surprise you if he did?
MR. GILLETTE: Same objection.
THE WITNESS: Yes, it would surprise me.
BY MS. LEE:
Q And why is that?
A Because he's nice.
Q Did Eric ever express his feelings to you about law enforcement in general?
MR. GILLETTE: Objection. Vague and ambiguous. Overbroad.
THE WITNESS: No, we usually don't talk about law enforcement.
BY MS. LEE:
Q After Eric was arrested and went to the boys camp because he assaulted you, did you have any talks with Eric after that about how police officers treated him during

that incident?
A No.
Q Was Eric a violent person?
A No.
Q Other than the time that he assaulted you, are you aware of any other times that he physically hurt anybody else?
A No.
Q Are you aware of any other times that he -- did he get into arguments often with other people?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
BY MS. LEE:
Q That you're aware of.
A No.
Q Was Eric an angry person?
A No.
Q Do you believe that Eric respected authority?
MR. GILLETTE: Objection. Vague and ambiguous. Overbroad.
THE WITNESS: Can you say that again?
BY MS. LEE:
Q Yeah. Well, you indicated that you had many rules. So you were an authority, would you not agree, in Eric's life?

A Yeah. I'm an authority, yeah.
Q Did he respect your authority from what you perceived?
A Yes.
Q Did he respect -- did he ever tell you that he had problems with authority in general?
A No. He never said that.
Q Did you ever observe that Eric had problems with authority in general?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.
BY MS. LEE:
Q Go ahead.
A No, I did not.
Q Do you believe that Eric respected his mother's authority?
MR. GILLETTE: Objection. Vague and ambiguous. Not reasonably calculated to lead to the discovery of admissible evidence.
THE WITNESS: Yeah, I think so, yeah.
BY MS. LEE:
Q Do you believe that Eric respected his teachers' authority when he was in school?
MR. GILLETTE: Same objection.

THE WITNESS: I believe so.
BY MS. LEE:
Q Did Eric have any life insurance?
A No.
Q Have you receive any death benefits or any money based on his death?
A No.
Q Was Eric a gang member that you're aware of?
A No.
Q Was he ever associated with any gangs to your knowledge?
A No.
Q And you indicated that you saw on the news a photograph of a toy gun that is alleged to have been found in the area of the incident of Eric's death.
Do you remember that testimony?
A Yes.
Q Do you believe that Eric had this toy gun in his possession at the time of his death?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Lacks foundation. Calls for speculation.
THE WITNESS: I'm not sure because I wasn't there.
BY MS. LEE:
Q Did you also hear on the news or from any source

other than your attorney that it's alleged that Eric pointed the gun in the direction of police officers at the time of his death?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I wasn't there.

BY MS. LEE:

Q Did you hear about that, though?

A Say it again.

Q Did you hear that it's alleged that Eric pointed a toy begun in the direction of police officers at the time of his death? Did you ever hear that?

A I never heard that.

Q Have you ever seen Eric point any toy guns in anyone's direction?

A No.

Q Earlier we talked about the incident wherein you called the police because Eric assaulted you, and I wanted to ask you some further questions about that incident.

Do you remember talking to police officers on the night of that incident?

A I think so, yeah.

Q Do you remember that you told police officers on the night of that incident that on the night of that incident, you had picked -- that Eric had picked you up at

about 2:00 a.m. at a bar in Hermosa Beach?
A Yes.
Q Do you remember telling police officers that when the two of you returned home, that Eric walked directly to his room, picked up a three-foot metal bar, and returned to the living room where you were standing?
Do you remember telling the police officers that?
A No.
Q When you met with the police officers that evening, did you tell them the truth?
A Yes.
Q And do you believe your memory was better then regarding the incident than it is now?
A Maybe.
Q But to the best of your recollection, you didn't lie to the police officers; did you?
A No.
Q And everything you told them was the truth; correct?
A Correct.
Q Do you remember telling the police officers that Eric raised this metal bar over his head and demanded money from you?
A Not sure.
Q But if you told the police officers that that

that night, would you have been telling the truth?

A Yes.

Q Do you remember telling the police officers that you then threw the cash that you had, approximately $100, at Eric's feet? Do you remember telling the police officers that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

BY MS. LEE:

Q You can answer.

A I don't remember.

Q But once again, if you told the police officers that, that would have been the truth; correct?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

BY MS. LEE:

Q Correct?

A Yes.

Q Do you remember telling the police officers that Eric began swinging the metal pole at you striking you four to five times in the back and torso area.

Do you remember telling the police officers that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember.
BY MS. LEE:
Q But if you told them that, that would have been the truth; correct?
MR. GILLETTE: Same objection.
THE WITNESS: Not sure about that.
BY MS. LEE:
Q But you wouldn't have lied to the police officers that night, would you have?
A I'm not sure.
Q Okay. To the best of your recollection, did you lie to the police officers about that incident?
A No.
Q Do you remember telling the police officers that you attempted to grab the metal pole and struggled to gain control of the pole, but Eric punched you in the head two to four times? Do you remember telling the police officers that?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.
BY MS. LEE:
Q You can answer.
A No, that didn't happen.
Q So if you told the police officers that, then

that was not the truth?

A I didn't tell them that.

Q Do you remember telling the police officers that Eric said he was taking the car, and that you told him not to take the car?

Do you remember telling the police officers that?

A Yes.

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: Yes.

BY MS. LEE:

Q Do you remember telling the police officers that Eric's grandmother -- I'm sorry, strike that.

Do you remember telling the police officers that Eric's grandmother told you that Eric was going to use the metal pipe or pole to steal your car and cash?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. And right to privacy.

THE WITNESS: I don't remember.

BY MS. LEE:

Q But once again, you don't remember ever lying to the police officers that night; correct?

A No, I didn't lie.

Q Do you remember telling the police officers that Eric had been living most of his life with his grandparents and mother prior to the incident?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember.

BY MS. LEE:

Q But once again, what you would have -- what you told the police would have been the truth; correct?

MR. GILLETTE: Same objection.

BY MS. LEE:

Q You can answer.

A Yes.

Q Do you remember telling the police officers that as of that date, the date of the assault, that you had minimal involvement in Eric's life?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember saying that to them.

BY MS. LEE:

Q But once again, if you told them that, that would have been the truth; correct?

MR. GILLETTE: Lacks foundation. Calls for

speculation. Not reasonably calculated to lead to the discovery of admissible evidence. And right to privacy.

BY MS. LEE:

Q Correct?

A I don't remember telling them that, so --

Q But you wouldn't have lied to them; correct?

MR. GILLETTE: Same objections.

THE WITNESS: No I wouldn't lie to them.

BY MS. LEE:

Q Do you recall telling the police officers that in recent months prior to that assault that Eric had become a discipline problem for his mother and grandparents? Do you remember telling the police that?

A No, I don't remember.

MR. GILLETTE: Same objection.

BY MS. LEE:

Q But once again, you didn't lie to the police; did you?

MR. GILLETTE: Same objection.

THE WITNESS: No, I didn't lie.

BY MS. LEE:

Q Do you remember telling the police officers that as a result of the family's fear of Eric, he was sent to live with you in the City of Lomita? Do you remember telling the police officers that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No, I don't remember.

BY MS. LEE:

Q But once again, you didn't lie to the police officers; did you?

MR. GILLETTE: Same objection.

THE WITNESS: No, I didn't.

BY MS. LEE:

Q Do you remember telling the police officers that he tried to dis -- that you tried to discipline Eric; however, due to Eric associating with the wrong crowd, he developed a disdain for you.

Do you remember telling the police officers that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. Lacks foundation.

THE WITNESS: No, I don't remember that.

BY MS. LEE:

Q But once again, you didn't lie to the police; correct?

MR. GILLETTE: Same objection.

THE WITNESS: I don't even remember having a long conversation with the police. It lasted like 30 seconds.

So I don't know where you're getting all this from.

MS. LEE: Well, I'll show you in a minute.

MR. GILLETTE: We're going to take a break for a minute.

THE WITNESS: Yeah, we should take a break.

(Off the record)

MS. LEE: I'm going to mark this as the next in line which is 20. I'm going to show you what's been marked as Exhibit 20, which is a series of documents, and you can share that with your attorney. Take your time, look over the documents, and when you've had a chance to look them over, let me know when you're ready; okay?

(Exhibit 20 was marked for identification by the Certified Shorthand Reporter and is attached hereto.)

MR. GILLETTE: I'll just note that I will be objecting to this document on two grounds. A, it's hearsay. Second, this is part of -- this is from when Eric was a juvenile.

MS. LEE: Noted.

MR. GILLETTE: So that's protected as a juvenile.

MS. LEE: Noted.

BY MS. LEE:

Q Now, I want to ask you some questions about these documents. But to make it easier, do you see at the document of the documents, it says "Rivera City" and

there's numbers? Do you see that? Each document at the bottom is going to have "Rivera City" and then numbers. So when I ask you to turn to those pages, those are the numbers I'm referring to; okay?

A Uh-huh.

Q Now if you look at the first document which is Rivera city 992 to 993, the first two pages, and this document is entitled to County of Los Angeles Sheriff's Department Incident Report.

Have you seen this document before?

A No.

Q Now this document appears to document a 211 robbery and a 245 assault with a deadly weapon that's consistent with your testimony regarding the incident where Eric assaulted you.

And my question --

MR. GILLETTE: And --

MS. LEE: I don't have a question yet.

BY MS. LEE:

Q My question is that if you look under the second box, it says, "V1, Malik, Philip Allen."

Is that your name?

A Yes.

Q And 25607 Cypress Street, Lomita. Was that your residence at the time?

A Yes.

Q And it notes the date and time of the occurrence as September 20th, 2014.

Does that refresh your recollection as to the date of the incident wherein Eric assaulted you that you testified to?

A I don't remember.

Q Does that sound like it's incorrect, that date?

A I don't remember.

Q And then if you look at the third box down, it has the name "Rivera, Eric Thomas." And is that the name of your son, Eric Rivera?

A Yes.

Q Can you look at the second page, which is listed at Rivera city 993. In the middle of that page, it's inventory that there's $20 bills US currency for a total of $100.

Do you see that?

A I see it.

Q Is that -- did Eric take approximately $100 from you on that incident date?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

///

BY MS. LEE:

Q Go ahead.

A I don't remember.

Q And it's listed right underneath there 1998 Mercedes CLK 320 two door silver.

Was that the car that -- was that your car at the time?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: That was Eric's car, I think.

BY MS. LEE:

Q Eric's car. Okay. If you can turn to the page that's stated Rivera City 983 at the bottom, the very last -- there's a fourth paragraph down that begins with V Malik. And if you look at the last sentence, it says, "V Malik added that when he does have a conversation with Eric, it's usually the victim telling his son to get a job, which upsets Eric."

Do you remember telling the police that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Lacks foundation. Right to privacy.

THE WITNESS: I don't remember that.

///

BY MS. LEE:

Q If you look at the next page, which is Rivera City 984, at the very top paragraph, it states that, "Upon their arrival home, Eric walked directly to his bedroom, retrieved a long pipe, and confronted the father in the living room. Eric told his father, 'Give me all your money. I'm robbing you.'"

Do you remember telling the police that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember that.

BY MS. LEE:

Q Do you remember telling the police that, "Fearing for your safety you retrieved money from your pocket and threw it on the floor in front of Eric."

Do you remember tells the police that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No, I don't remember that.

BY MS. LEE:

Q If you look at that first paragraph, second to last line, it states, "However, Eric disregarded his father, retrieved the money from the floor, told his

father, quote, 'If I had a gun, I'd kill you,' and walked out of the house."

Do you remember telling the police that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No.

BY MS. LEE:

Q And once again, you didn't lie to the police when you spoke to them that night; did you?

A No.

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No.

BY MS. LEE:

Q If you look at the last -- second to last sentence on the first paragraph, "Victim Malik stated due to his son's actions, he feared him as well."

Do you remember telling the police that you feared your son?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No.

BY MS. LEE:

Q But once again, you didn't lie to the police; correct?

A Correct.

Q Do you remember telling -- if you look at the second paragraph from the top in the middle of the paragraph, it begins with, "Moreover, as we finalized our conversation, V Malik told me he had since been having problems with his son. He set up a surveillance system in his home which captured the incident."

Do you remember telling the police that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember that.

BY MS. LEE:

Q Did you have a security system setup at your home at this time?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember if it was at this time.

BY MS. LEE:

Q Do you remember at what time you had a security -- or a surveillance system setup in your home?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy, and I will instruct him not to answer that question.

(Witness instructed not to answer)

MS. LEE: And once again, I believe that your instruction is not appropriate, but I'll meet and confer with you after.

BY MS. LEE:

Q Did you sustain any injuries as a result of Eric assaulting you during this incident?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

BY MS. LEE:

Q You can answer.

A No.

Q Do you remember lifting up your T-shirt and showing your back which had a bruise on it to the police officers?

Do you remember doing that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember that.

BY MS. LEE:

Q Could you look at Rivera City 986? That's a photograph. Do you recognize this photograph?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember it.

BY MS. LEE:

Q Do you believe this photograph depicts you?

MR. GILLETTE: Same objection.

THE WITNESS: It's a terrible picture.

BY MS. LEE:

Q But do you believe it depicts you?

MR. GILLETTE: Same objection.

THE WITNESS: Not sure.

BY MS. LEE:

Q Do you see on this photograph that the individual on this photograph is lifting up his shirt and showing his back side?

Do you see that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No, I can't tell.

///

BY MS. LEE:

Q And you don't remember ever lifting up your shirt to show your back side for the police to photograph relating to this incident?

A I don't remember that.

Q Look at 987, which is the next page. It's another photograph of an individual's backside with their shirt lifted up. Is it still your testimony that you don't remember pulling up your shirt to show your backside to the police to photograph?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. Assumes facts not in evidence. Argumentative.

THE WITNESS: I don't remember that.

BY MS. LEE:

Q Look at 988, which is the next page. This is a continuation of the same report. If you look at the description of items, the first item listed on the top says, "Metal pole," then it says, "Description: Three-foot rust color metal pole threaded at both ends."

Do you see that?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: Yes, I see that.

BY MS. LEE:

Q Does that refresh your recollection as to the type of pipe that Eric assaulted you with?

MR. GILLETTE: Same objection.

THE WITNESS: No, I don't remember.

BY MS. LEE:

Q Did you have a pipe that was a three-foot rust colored pole threaded at both ends anywhere in your residence at the time of this incident?

A No, I don't remember that.

Q Did you have a pipe that's as described here in your car at the time of the incident?

A No.

Q Do you have any idea where this pipe came from?

A No.

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

BY MS. LEE:

Q After the incident, did Eric ever apologize to you?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No. He didn't need to.

BY MS. LEE:

Q Why do you say that?

A Because I'd forgive him no matter what. It doesn't matter.

Q Is it your testimony that he never apologized to you after this incident?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember. I don't remember.

BY MS. LEE:

Q Did Eric ever tell you after this incident why he attacked you?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I don't remember.

BY MS. LEE:

Q If you look at Rivera City 990, the second paragraph in from in the top in the middle of the paragraph, it states, "He," meaning Eric, "explained that there were, quote/unquote 'People trying to get him, which is why he took the money and the car.'"

My question to you is: Did Eric ever tell you at the time of this incident or around the time of this

incident that he believed that people were trying to get him? Did he ever tell you that?

A I don't remember that.

Q Did Eric ever express to you a fear or a concern that anybody was trying to hurt him?

A I don't remember that, no.

Q After this incident, did you have any discussions with Eric about the incident?

A Say that again, please.

Q After this incident and after Eric was released from the boys club or boys camp, I'm sorry, did you have any discussions with Eric about this incident?

A No.

Q Do you know if Eric ever prior to his death made any threats to law enforcement officers or police officers?

Are you aware of that?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I'm not aware of any.

BY MS. LEE:

Q Did Eric have any social media accounts that you're aware of?

MR. GILLETTE: Objection. Lacks foundation. Calls

for speculation. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: I'm not sure because he didn't want me on any of them, so --

BY MS. LEE:

Q So he didn't have a Facebook account or anything that you're aware of?

MR. GILLETTE: Same objection.

THE WITNESS: I'm not sure because he -- he did have one, but he blocked me and I wasn't allowed on there. There's a way he can block you, I guess.

BY MS. LEE:

Q Do you know what his Facebook account name was?

A I have no idea.

Q Did you have any social media accounts at the time of -- at the time surrounding Eric's death?

A Yes.

Q And what was your Facebook account -- the name of your Facebook account?

A I'm not sure of that whole thing. I don't know how to link or whatever. I don't know how to do that stuff.

Q Is it under your name, Philip Malik?

A It could be.

Q Did you ever post anything on social media

pertaining to Eric's death?
A Yes.
Q How many posts did you make on social media pertaining to Eric's death?
A I'm not sure.
Q More than five?
A Yes.
Q More than ten?
A Not sure.
Q So definitely more than five, but you're not sure if it's more than ten; is that fair?
A Yes. That's fair.
Q And can you tell me what the substance of these posts were relating to Eric's death?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.
THE WITNESS: I don't remember.
BY MS. LEE:
Q Did you ever express anger during these social media posts?
A No.
Q Did you ever express any opinions you had as to whether or not the police did anything wrong pertaining to Eric's death in these social media posts?
MR. GILLETTE: Objection. Not reasonably calculated

to lead to the discovery of admissible evidence.

THE WITNESS: I don't know.

BY MS. LEE:

Q Did you ever post on those social media posts your belief as to what happened that caused Eric's death?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Lacks foundation. Calls for speculation.

THE WITNESS: I don't remember that.

BY MS. LEE:

Q To the best of your recollection, what did these posts pertain to?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't remember.

BY MS. LEE:

Q Have you had any negative contacts with law enforcement, that you consider negative?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Vague and ambiguous. Overbroad.

THE WITNESS: Yeah, I don't remember.

BY MS. LEE:

Q Excuse me?

A I don't remember. I mean, they could all be negative to tell you the truth, but no, I guess not. I don't remember having -- besides you know, going to jail or something.

Q Do you believe that you were treated fairly by law enforcement relating to the times that you went to jail?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't remember.

BY MS. LEE:

Q As you sit here today, do you have any negative feelings about law enforcement?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

BY MS. LEE:

Q Go ahead.

A No.

Q Do you believe the police have ever lied to you?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't know. I mean, they could have, so I don't know. If they're lying to me, how would I know?

///

BY MS. LEE:

Q But have you ever felt that they lied to you?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: Yeah, sometimes I have.

BY MS. LEE:

Q Tell me each occasion that you believe the police lied to you.

MR. GILLETTE: Objection. Overbroad. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I just believe sometimes they lie; that's all.

BY MS. LEE:

Q Is there any specific occasion that pops in your mind?

A No.

Q Do you believe the police lied to you in relation to Eric's death?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Vague and ambiguous.

THE WITNESS: I'm not sure.

BY MS. LEE:

Q You earlier testified that when Eric was a minor

that you gave approximately $300 to Eric's grandmother to assist in supporting him; is that correct?

A Yes.

Q Is there a particular reason that you gave the money to Eric's grandmother and not his mother?

MR. GILLETTE: Objection. Argumentative. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: No, there's no reason.

BY MS. LEE:

Q Did Eric have any girlfriends that you're aware of?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No. Not sure. I know he liked some girls, but I don't think they were girlfriend and boyfriend, so --

BY MS. LEE:

Q So did he ever go on dates that you're aware of?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I'm not sure. I wasn't there with him, so I'm not sure.

///

BY MS. LEE:

Q And for the year preceding Eric's death, did you know any of his friends?

A Yes.

Q Can you give me the names of the friends that you knew?

A I only met one, and his name was Raul.

Q Do you know his last name?

A No, I don't know his last name.

Q And do you know where he lived?

A In Wilmington.

Q Do you have any other information about this friend of Eric's?

A No. I only met him a couple times.

Q Are there any other friends of Eric that you were -- that you knew for the year preceding his death?

A I knew a couple of his friends, but I don't remember their names.

Q When you indicated that Eric blocked you from his Facebook account, were you ever able to view any of Eric's social media accounts?

A No. He blocked me on all of them.

Q And you never had anybody else look at his social media?

A No. It's his right to block, so --

Q Now, the friends that Eric socialized with that -- for the year preceding his death, did you have any feelings about them? Did you feel they were good people, bad people? Good kids, bad kids? Any feelings?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy.

THE WITNESS: No, I just thought they were kids.

BY MS. LEE:

Q So they weren't gang members to your knowledge; correct?

A No, they weren't gang members.

Q And to your knowledge, had they been convicted of any crimes?

MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.

BY MS. LEE:

Q I'm sorry. Your answer was?

A No.

Q I want to talk about after Eric got his GED.

How old was he when he got his GED?

A 16, 17, or 18. In those ranges, the estimate.

Q And other than working for you, did he have any employment that you're aware of after he got his GED?

A No. He only worked for me.
Q Did he try to get other jobs and was unable to get them?
MR. GILLETTE: Objection. Lacks foundation.
THE WITNESS: Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.
BY MS. LEE:
Q That you're aware of.
A We had enough work with him working for me. But if he wanted to get another job, he could have. I mean, I don't know what he did, no.
Q Did he ever indicate to you his desire to do any other employment other than to work for you?
A I don't remember.
Q And did you ever have talks with him about what he wanted to do when he grew up?
A I'm pretty sure he said he wanted to help me run our rental houses and stuff like that.
Q Anything else?
A No. He was too young to talk about that stuff.
Q So for the year preceding Eric's death, he lived primarily with you; correct?
A Yes.
Q And can you tell me for the year preceding his

death, what was his general daily routine?

MR. GILLETTE: Objection. Vague and ambiguous. Overbroad.

THE WITNESS: He would come by the house, get like 40 or 50 bucks, and he would go off to his friend's house for a couple weeks or a week -- week or two, he would go off to his friends or wherever he goes.

BY MS. LEE:

Q When you say 40 or 50 bucks, you mean you gave him $40 or $50?

A Yes.

Q And then you say he would go to stay at a friend's house for a week or two; correct?

A Yes.

Q Do you know which friends?

A I have no idea.

Q Do you know where they lived?

A I only know where one of them lived.

Q Which is Raul?

A Yeah, Raul. Wilmington.

Q Wilmington. Any other information that you have?

A I don't have any other information.

Q Do you know what Eric did when he went to stay with his friends?

A I don't know.

Q He never discussed it with you?
A No, he didn't.
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
THE WITNESS: No, he didn't.
BY MS. LEE:
Q And when he stayed with you and he wasn't at his friend's house, what was his general daily routine?
A He usually would change his clothes, shower, and he would leave right away because he wanted to hang out with his friends.
Q So even when he stayed with you, he would leave in the day to be with his friends, generally; correct?
A Usually, yeah.
Q Did he do anything else?
A No.
Q Did he usually come back and have dinner with you at night?
A No, he would get money and go out to eat.
Q Did Eric ever pay any rent to you?
A No.
Q For living with you? Do you know if he ever paid any rent to his mother or grandparents?
A I don't know.
Q And did he have a credit card?

A I don't know.
Q You indicated he had a cell phone; correct?
A Sometimes he had a cell phone; sometimes he didn't.
Q And you said sometimes you paid for the cell phone bill; correct?
A Yes.
Q And when you didn't pay for the cell phone bill, do you know how he got opinion to pay this bill?
A From working on the houses.
Q Did he have any health insurance at the time of his death that you're aware of?
A I believe he did.
Q Was he insured through you or do you know?
A I believe it was Medicare or whatever it's called. I don't know.
Q Have you lost any significant time from work in the past year?
A Just a year?
Q Correct.
A Yeah. A bit. A little bit.
Q Why did you miss work?
A Mourning.
Q I'm sorry?
A I was mourning.

Q How many days did you miss work that you attribute to the loss of your son in the past year?
A Well, you'd have to understand, my job isn't a lot of work because I'm a landlord. But I probably missed remodeling and fixing up the house, like maybe four or five times.
Q Four or five times in the last year. Is that one day? For a week?
A Maybe a week at a time. My brother did it. He said I could relax, so --
Q I'm sorry?
A My brother did the work instead of me.
Q And what is your brother's name?
A Robert Malik.
Q And are you still currently -- you're still working in your landlord and housing project --
A Yes.
Q -- business. Sorry.
Did Eric ever help financially support you?
A No.
Q Do you know whether or not Eric ever financially supported his mother?
A I don't know.
Q Can you give me your best estimate as to the total amount of money that you contributed to support in

raising Eric throughout his life?
A I don't have a calculator, so I couldn't do that.
Q Can you give me your best estimate?
MR. GILLETTE: I'd object. Asked and answered.
THE WITNESS: Through his whole life? Is that what you're saying?
BY MS. LEE:
Q Yeah.
A Let me try to do that.
Q Sure. Take your time.
A Give me some time.
Q No problem. Take your time.
A Maybe about $120,000 to $200,000.
Q Do you remember speaking to the police about your son's death?
A Do you mean the force investigators?
Q Correct.
A Yes.
Q And do you remember when you spoke to them?
A It was two or three days after his death.
MS. LEE: I'm going to show you what I'm marking as Exhibit 21, which I'll put at the last page.
(Exhibit 21 was marked for identification by the Certified Shorthand Reporter and is attached hereto.)
///

BY MS. LEE:

Q And if you could take a look at this with your lawyer and just take your time and let me know when you're ready.

A All right.

Q Okay. Do you remember speaking with the LAPD Force Investigation Division on that date?

A Yes.

Q And you've had a chance to review the transcript?

A Yes.

Q Do you believe it accurately reflects your conversations with the officer at the time?

A I don't remember.

Q But you're aware that that interview was audio taped? Are you aware of that?

A No, they didn't tell me that.

Q After reviewing the transcript, do you believe that you told the truth as you knew it to the officers on that day?

A As much as I recall, yeah.

Q After reviewing the transcript, do you believe that you lied to the officers in any way during that interview?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

THE WITNESS: I don't think I lied, no.
BY MR. GILLETTE:
Q Now, on the date that -- on the date of Eric's death, where were you?
A I was at home.
Q And has any -- did you witness any part of that incident that was the cause of Eric's death?
A No, I wasn't there.
Q And when you say you were home, were you home that entire day on the day of his death?
A I believe so.
Q And his death occurred, I'll represent to you -- my understanding is his death occurred in the evening.
Were you home that evening?
A Yes.
Q And were you home the following day as well?
A I was there in the daytime, yes.
Q You were where in the daytime?
A At home.
Q Has anyone told you that they witnessed any portion of that incident?
A Yes. Some people.
Q Can you tell me each person who told you that they witnessed the incident?
A This guy named Chris said something. I was over

there looking around, and he said he saw, like, the end of it.

Q So when you say -- let's break that down. You were over there. You mean the incident site; correct?

A Yes.

Q When was this? How long after the incident were you there?

A I don't know. Five or six days after.

Q And were you -- did you go alone, or were you with someone when you went to the scene of the incident?

A With my brother.

Q What's your brother's name again?

A Robert Malik.

Q Where does he live -- his address?

A I don't know his address.

Q Where does he live?

A In Gardena.

Q And what's his date of birth?

A I don't know his exact date of birth.

Q What year was he born?

A Not sure.

Q How old is he?

A He's two years older than me, so he should be 47.

Q So you and your brother go to the incident site five or six days after the incident, and you talk with an

individual named Chris; is that correct?
A Yes.
Q Do you know Chris's last name?
A I don't remember.
Q Is he a neighbor or someone who lived around there or do you know?
A He's a neighbor. He lived on the corner or something like that.
Q And when you arrived at the incident scene, how did you come to have a conversation with Chris?
A I was asking everybody there. I knocked on everybody's door.
Q Oh, I see. And when you knocked on the neighbor's doors, Chris answered the door and spoke to you; is that right?
A Not right away, no.
Q When did you speak with him?
A I talked to him on the phone.
Q And how did you -- did you leave your phone number, or how were you able to call him?
A I got his phone number.
Q From who?
A Somebody gave me his phone number.
Q Another neighbor?
A Yes.

Q And did that neighbor give you that phone number indicating that Chris may know something?
A Well, I got other people's numbers too. And I went through everybody and got everybody's number so I could call them.
Q Who gave you Chris's number?
A I don't remember.
Q Who gave you other people's numbers?
A I don't remember, they're just people that lived in the area right there. And I left a sign there, too, on the gate with my phone number.
Q Oh, I see. So what else did the sign contain other than your phone number?
A My E-mail address, and if anybody knows anything, to call me.
Q And then Chris called you is that correct?
A Actually, I saw a video on Facebook, and it was -- I went on Facebook after, and I saw a video, and it was him crying saying he saw what happened or something like that. So I tried to get a hold of him.
Q So how did you come to find this video on Facebook?
A I just looked through the whole Facebook thing that night and the day after, and just kept looking every day. And I looked on YouTube every day to try to find

videos and stuff.
Q But how did you know to go on this individual's Facebook page to see this video?
A I trolled the whole Facebook.
Q Did you put in any search terms like your son's name or anything like that?
A No, I started looking through people's Facebooks in Wilmington --
Q Oh, I see.
A -- and I started looking at their friends of friends of friends of friends.
Q Okay. So did you know that this Chris was a resident of Wilmington when you found his Facebook page?
A Yeah, he said it in the video that he put in.
Q And what did the video say?
A He said he just saw someone got murdered.
Q Do you still have Chris's telephone number or contact information?
A I don't have it on me.
Q But do you have it?
A I'm not sure.
Q Okay. If I leave a blank in the deposition transcript, if you have it, can you fill it in for me, his contact information?
A I'll have to find it. I don't know where it is.

(Information Requested:_____
_____
_____)

BY MS. LEE:

Q I'll leave a blank for you. So you'll get a copy of the transcript afterwards and you can review it. And if you can find it, can you please put it in there for me?

A I don't know if I have it, but I'll check.

Q Okay, but -- you'll check?

A Yeah, I'll check.

Q Okay. Thank you. And when you spoke with Chris, what did he tell you that he saw?

A He wouldn't tell me in the beginning, but I kept calling him and bugging him and calling him and calling him. And then he told me -- at the end that, he told me that he only saw the ending of it, and he can't tell me what he saw because he talked to detectives or something like that.

Q Did he indicate to you what he meant by he only saw the ending?

A I don't know.

Q So did he tell you that he actually saw shots fired or heard shots fired?

A On his video he said it.

Q But when you talked to him, did he say that to

you?
A No, he was reluctant to talk to me.
Q And when you spoke with him, he wasn't -- he never specified to you what he actually saw?
A No, he wouldn't specify it, no.
Q How many times did you speak with him?
A Four or five times.
Q When was the last time you spoke to him?
A I don't recall.
Q Was it more than six months ago?
A Yes. More than six months ago.
Q More than a year ago?
A Maybe more than a year ago, yeah.
Q Did you ask this individual Chris to come testify on behalf of yourself for your lawsuit?
A I mentioned that to him, but I'm not sure what happened.
Q Did you speak with any other individuals who indicated to you that they had any knowledge of what happened during the incident?
A A lot of them said that they saw it after. They didn't see it happen. They saw it after.
Q So let me break that down. A lot of them meaning the neighbors that you spoke to; correct?
A All the neighbors, yeah.

Q All the neighbors. And when you say they indicated that they saw it after. What do you mean by that?

A That the car was already on top of him when they looked out the window.

Q I see. Did you speak with any individuals who told you that they witnesses the events prior to the car being on top of Eric?

A No.

Q Did you speak with any individuals who indicated that they had any information as to the incident at all?

A I talked to some people like they gave me -- I got their pictures and cell phone videos.

Q Okay. And were these neighbors as well?

A They were all neighbors, yeah.

Q And when you say you got their pictures and cell phone videos, you mean that they actually showed you photographs they had taken and videos they had taken?

A Yes.

Q And they provided you with copies of these; is that right?

A Yes.

Q And when you reviewed the videos, did you see if -- what the videos depicted?

A Yes.

Q And what did the videos depict?
A My son under the car of -- close -- and his head sticking out of the front left tire.
Q Did any of videos depicts the incidents before that point in time?
A No. They were all after.
Q And would it be the same for the photographs, that they were all depicted after the car was on top of your son?
A Yes.
Q Do you still have those videos and photographs, a copy of them?
A Yes.
Q I'm going to ask that you not destroy those.
A I already gave them to my lawyer to --
Q Okay. Any other persons that you've spoken to that gave you any other information about this incident other than your lawyers?
A No.
Q Okay. Did you speak with Eric's mother about this incident?
A Yes, of course.
Q Did she ever tell you that she witnessed the incident?
A No, she never witnessed the incident.

Q Did she ever tell you that she had spoken to people who claim that they witnessed the incident?
A No.
Q When was the last time that you spoke to Eric prior to his death?
A Two days before that.
Q And was that at your residence?
A Uh-huh.
Q Is that yes?
A Yes.
Q And what did you discuss at that time?
A We discussed -- he helped me cut the front tree in the yard, and he helped me load the tree branches in the trash, and he wanted $40. So I gave him $40. And I asked him if he knew where my TV mount was that I had in the shed, and he said he didn't know where it was.
Q Anything else that you can recall from that conversation?
A No. He wanted to go to his friend's house, so he left.
Q Did you ever -- do you believe that -- strike that.
During this conversation, did you notice anything out of the ordinary about Eric?
A No, the same.

Q What you would consider out of the ordinary?
A No, he seemed fine.
Q Seemed fine. And you indicated earlier when you testified that you did not ever know of Eric using methamphetamine; is that correct?
A No. He said he only smoked marijuana and drank alcohol and beer.
Q If I were to tell you the toxicology reports taken from the blood after Eric's death indicated that he had methamphetamine in his system, would that surprise you?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.
THE WITNESS: Yes, that surprises me.
BY MR. GILLETTE:
Q Did Eric ever suffer from depression that you're aware of?
A No.
Q Earlier, you indicated that at the time of the incident, your girlfriend Apollonia Cruz and her daughter were living with you; correct?
A Correct.
Q Are you aware that Ms. Cruz on March the 6th of 2018 started a GoFundMe page alleging that you had assaulted her?

A Yes, I'm aware of that.
Q And are you aware that Ms. Cruz stated that the judge granted her a temporary restraining order against you? Are you aware of that?
A Yes, I had one against her also.
Q Oh, I see. So were you served with a temporary restraining order relating to Ms. Cruz?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I'll instruct him not to answer.
(Witness instructed not to answer)
BY MS. LEE:
Q And you indicated that you got a temporary restraining order against her as well, is that right?
A Yes.
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I'll instruct him not to answer.
(Witness instructed not to answer)
MS. LEE: I'm going to show you what I'm going to mark now as Exhibit 22, and you can take a look at that and let me know when you're ready.
(Exhibit 22 was marked for identification by the Certified Shorthand Reporter and is attached hereto.)
THE WITNESS: Yeah, I'm ready.

BY MS. LEE:

Q Have you seen this GoFundMe page before?

A Yes.

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I'll instruct him not to answer.

(Witness instructed not to answer)

BY MS. LEE:

Q Are you still in any type of a relationship with Ms. Cruz?

MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Right to privacy. I'll instruct him not to answer.

(Witness instructed not to answer)

BY MS. LEE:

Q Does Ms. Cruz still live with you?

MR. GILLETTE: Same objection. Instruct him not to answer.

(Witness instructed not to answer)

MS. LEE: Counsel. Those instructions are not appropriate and you know it. Who he lives with at this time, whether or not he has a relationship with the individual?

MR. GILLETTE: He's already answered that question.

THE WITNESS: You asked that already.

MS. LEE: Whether or not he has a relationship with an individual does not violate his privacy. He can answer that question.

Do you agree.

MR. GILLETTE: I'll allow him to answer whether she lives with him.

MS. LEE: Whether or not he still has a relationship with her at the current time is not subject to privacy.

MR. GILLETTE: It's not remotely relevant to this --

MS. LEE: But that's not a proper grounds for you to instruct him not to answer.

MR. GILLETTE: It is. It's -- his privacy -- his relationships with third parties is in the sphere of his privacy.

MS. LEE: I disagree with you. But we won't argue about it here. I'll meet and confer with you.

BY MS. LEE:

Q Did you personally incur any expenses due to Eric's death, like funeral expenses or anything?

A Yes. There was an expense, yes.

Q And how much out-of-pocket expenses have you incurred as a result of Eric's death?

A I don't remember.

Q Did you pay for the funeral?

A We had him cremated.

Q And did you pay for that?
A I don't remember how much it was.
Q Do you have any estimate as to your out-of-pocket expenses that you've incurred as a result of Eric's death?
A No.
Q Do you have any receipts?
A Not on me, no.
Q Do you have any receipts at home?
A Not sure.
MS. LEE: I'll leave a blank in the deposition transcript. If you could look, if you find them, if you could attach them? Is that yes?
THE WITNESS: I'll try to find them, yeah.
(Information Requested:_____
_____
_____)
BY MS. LEE:
Q And did you give any interviews to the media relating to Eric's death?
A Yes.
Q And who -- tell me each interview with the media that you -- that you did relating to Eric's death?
A CBS.
Q And when did you do that, give that interview?
A I don't know the exact date.

Q Was it shortly after his death?
A Not directly right after, but it was after, yes.
Q Within six months of his death?
A I'm not sure.
Q What other interviews did you do?
A I mean, so when you say interviews, you mean like actually they wanted to have an interview, or do you mean just something like at the Department of Justice or something?
Q I'm talking about media interviews. So anybody from the media speak with you and you spoke with them about Eric's death?
A I don't remember. There is some though, I just don't remember them all.
Q How many media interviews did you do relating to Eric's death? More than five?
A I mean, do you count all the channels and everything?
Q Yes. So each channel would be an individual interview.
A I mean, we were on the news more than five times, yeah.
Q More than ten?
A Not sure.
Q And then you indicated that you had maybe spoken

to the Department of Justice; is that right?
A I was E-mailing them back and forth, yeah.
Q And what were you E-mailing them about?
A If they were going to prosecute these police officers.
Q And did you have a position as to whether or not you believe these officers should be prosecuted?
A I feel like they should be prosecuted, yes.
Q But you weren't on the incident and you didn't see what happened, so what do you base that opinion on?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation. Not reasonably calculated to lead to the discovery of admissible evidence.
BY MS. LEE:
Q Go ahead. You can answer.
MR. GILLETTE: May be also be invasive of attorney-client privilege.
So outside of anything you've heard from your attorneys.
THE WITNESS: The fact that he was unarmed.
BY MS. LEE:
Q And when you say "unarmed," what do you mean by that?
A I mean he had a four-year old kid's toy. He didn't have a gun.

Q Any other basis for your belief that these officers should be prosecuted?
A They were negligent. They left their car in drive.
Q Any other basis for your belief that the officers should be prosecuted?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Calls for legal conclusion.
THE WITNESS: Seems to me that they were very negligent.
BY MS. LEE:
Q Anything else?
MR. GILLETTE: Same objection.
BY MS. LEE:
Q You can answer.
MR. GILLETTE: And also may be violating the attorney-client privilege.
BY MS. LEE:
Q Go ahead.
A Yeah, seems like they made a lot of mistakes.
Q So you indicated that one mistake you believe was the car; correct?
A Correct.
Q And you said the other mistake you believe they

made was because it was a toy gun; correct?
MR. GILLETTE: Objection. Misstates the testimony.
BY MS. LEE:
Q Is that what you believe?
MR. GILLETTE: Objection. Lacks foundation. Calls for speculation.
MS. LEE: You can answer.
MR. GILLETTE: Calls for legal conclusion.
MS. LEE: You can answer.
MR. GILLETTE: Not reasonably calculated to lead to the discovery of admissible evidence. And may be invasive of the attorney-client privilege.
MS. LEE: You can answer.
THE WITNESS: Can you rephrase the question?
BY MS. LEE:
Q Another mistake you believe they made was because it was a toy gun; correct?
A Right.
MR. GILLETTE: Same objection, and calls for expert opinion.
BY MS. LEE:
Q Any other mistakes that you believe they made?
MR. GILLETTE: Objection. Not reasonably calculated to lead to the discovery of admissible evidence. Calls for legal conclusion. Calls for expert opinion. And may

be invasive of the attorney-client privilege.

MS. LEE: You can answer.

THE WITNESS: I don't really know anything else.

BY MS. LEE:

Q Do you have a copy of any of the media interviews that you provided related to your son's death, any newspaper article or a video or anything?

A I do have some -- I saved some of the videos, yeah. They're on the news though. I mean, anyone could get them off the internet.

Q I'm going to ask you not to destroy them; okay?

A Okay. I -- yeah.

MS. LEE: I think I'm almost done. So let's take three minutes. Oh.

BY MS. LEE:

Q Your brother Robert Malik, does he have a middle name?

A I'm not sure.

Q Middle initial?

A I think it might be Allen also.

Q A-L-L-E-N like yours?

A Not sure.

MS. LEE: Let's take three minutes, and we hopefully can wrap it up.

MR. GILLETTE: Okay.

(Off the record)

MS. LEE: I just have a few more questions, and I think we're going to wrap up.

BY MS. LEE:

Q Do you know whether or not Eric was ever homeless?

A I don't know.

MS. LEE: I think that's it. I don't have any other questions for you at this time. There is an issue that may be outstanding. I'll meet and confer with your lawyer about some of the objections and instructions. Other than that, I think we're done. So we can have the same stip -- you weren't there.

I would propose the following stipulation: The court reporter be relieved of his duties under the federal codes, that a copy of the transcript will be sent to counsel.

(Discussion off the record)

MS. LEE: He'll review the transcript and make any changes, counsel will advise us of any changes, and we'll maintain the original. And if it's lost destroyed or otherwise unavailable, that a certified copy can be used in its stead.

MR. GILLETTE: So stipulated.

(Deposition concluded at 1:19 p.m.)

STATE OF CALIFORNIA

COUNTY OF CALIFORNIA

I am the witness in the foregoing deposition. I have read the deposition. Having made changes and corrections as I desire, I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____

at_____,(Address)

_____

PHILIP MALIK

REPORTER'S CERTIFICATION

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

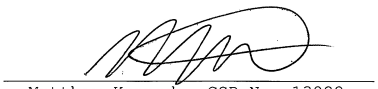
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [X] was [] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: January 8, 2019



Matthew Kennedy, CSR No. 13822
Certified Shorthand Reporter
For The State Of California

Errata Sheet

NAME OF CASE: successors in interest V CITY OF LOS ANGELES

DATE OF DEPOSITION: 12/19/2018

NAME OF WITNESS: PHILIP MALIK

Reason Codes: 1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

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PHILIP MALIK

Unless otherwise instructed in a stipulation, please send a copy of the signed errata sheet to:
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